

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA

JUDY ANN GILLESPIE,

Plaintiff,

v.

Civil Action No. 2:22-cv-00322

GRETCHEN C. ELSNER and PASCHALL  
TRUCK LINES, INC.,

Defendants.

**NOTICE OF REMOVAL**

AND NOW, come the Defendants, Gretchen C. Elsner and Paschall Truck Lines, Inc., by and through their attorneys, Timothy Smith, Esquire, Julie A. Brennan, Esquire, and Pion, Nerone, Girman, Winslow & Smith, P.C., and remove the above-captioned lawsuit pursuant to 28 U.S.C. §1441 *et seq.* from the Circuit Court of Kanawha County, West Virginia (Civil Action No. 22-C-493) to the United States District Court for the Southern District of West Virginia, and in support thereof aver as follows:

1. Plaintiff initiated this lawsuit in the Circuit Court of Kanawha County, West Virginia at Civil Action No. 22-C-493. Copies of all process, pleadings and Orders served upon the Defendants are attached hereto as Exhibit “A”. A copy of the State Court Docket is attached hereto as Exhibit “B”.
2. The Complaint names as Defendants Gretchen C. Elsner and Paschall Truck Lines, Inc.
3. According to the Complaint, Plaintiff is a resident of the State of West Virginia. (Compl. ¶ 1).

4. The Complaint alleges that Gretchen C. Elsner is a resident of the State of Georgia. (Compl. ¶ 2).

5. The Complaint alleges that Paschall Truck Lines, Inc. is a Kentucky corporation with a principal place of business located in Kentucky. (Compl. ¶ 3).

6. The Complaint alleges that Plaintiff “suffered injuries to her body” as a result of Defendants’ alleged negligent, careless, and/or reckless conduct.” (Compl. ¶ 24).

7. The Complaint alleges damages which include medical expenses, pain and suffering, physical limitations, permanent injuries, diminished capacity to enjoy life, annoyance and inconvenience, lost wages and lost earning capacity, and “other consequences and damages associated with her injuries as may be specified as this action progresses.” (Compl. ¶ 24).

8. In addition to compensatory damages, the Complaint seeks an award of punitive damages in the WHEREFORE clause.

9. Upon information and belief, as of January 5, 2021, the Plaintiff had incurred medical billings in the amount of \$15,988.00.

10. Upon information and belief, the amount of Plaintiff’s medical billings has increased since January 2021.

11. With an increase in the amount of Plaintiff’s medical billings, and allegations of lost wages/lost earning capacity, along with the request for punitive damages, upon information and belief the amount in controversy in this case is in excess of \$75,000.00.

12. The above-captioned action is within the jurisdiction of the United States District Court for the Southern District of West Virginia.

13. The United States District Court for the Southern District of West Virginia has original jurisdiction over this action pursuant to 28 U.S.C. §1332 inasmuch as the amount in

controversy exceeds the sum of Seventy-Five Thousand (\$75,000) Dollars, exclusive of interest and costs, and is between citizens of different states.

14. This action is removable from the Circuit Court of Kanawha County, West Virginia, pursuant to the provisions of 28 U.S.C. §1441 *et seq.*

15. Concurrent with the filing of this Notice of Removal, Defendants have filed a Notice of Filing of Notice of Removal with the Clerk of the Circuit Court of Kanawha County, West Virginia advising that they have removed this action to the United States District Court for the Southern District of West Virginia.

16. In filing this Notice of Removal, Defendants do not waive any affirmative defenses they may assert in this action

WHEREFORE, Defendants Gretchen C. Elsner and Paschall Truck Lines, Inc. respectfully pray that this Honorable Court remove the above-captioned case from the Circuit Court of Kanawha County, West Virginia to the United States District Court for the Southern District of West Virginia.

Respectfully submitted,

PION, NERONE, GIRMAN, WINSLOW  
& SMITH, P.C.

By: /s/ Julie A. Brennan  
Timothy Smith, Esquire (#6128)  
[tsmith@pionlaw.com](mailto:tsmith@pionlaw.com)  
Julie A. Brennan, Esquire (#11225)  
[jbrennan@pionlaw.com](mailto:jbrennan@pionlaw.com)  
420 Fort Duquesne Boulevard  
1500 One Gateway Center  
Pittsburgh, PA 15222

Phone: 412-281-2288  
Fax: 412-281-3388

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served upon all parties,  
via email, this 5th day of August, 2022, as follows:

Stephen B. Farmer  
Robert A. Campbell  
Mary Beth Chapman  
Farmer, Cline & Campbell, PLLC  
P.O. Box 5559  
101 North Kanawha Street, Suite 101  
Beckley, West Virginia 25801  
*Counsel for Plaintiff*

PION, NERONE, GIRMAN, WINSLOW  
& SMITH, P.C.

By: /s/ Julie A. Brennan  
Julie A. Brennan, Esquire